



Attorney's Docket No.: C110470016


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin J. Dowling, et al.
Serial No.: 09/805,590
Confirm. No.: 1160
Filed: March 13, 2001
For: LIGHT-EMITTING DIODE BASED PRODUCTS
Examiner: A., Minh D.
Art Unit: 2821

COPY

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 16th day of July, 2003.


Stephanie Godino

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

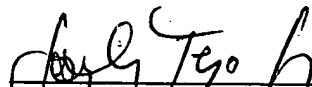
Transmitted herewith are the following documents:

- ☒ Response to Restriction Requirement/Election
- ☒ Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch are respectfully requested to contact the undersigned at (617) 395-7000.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 50/2762. A duplicate of this sheet is enclosed.

Respectfully submitted,
Kevin J. Dowling, et al., Applicants

By: 
Joseph Teja, Reg. No. 45,157
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Cambridge, Massachusetts 02142
United States of America
Telephone: 617-395-7000
Facsimile: 617-395-7070

Attorney Docket No.: C110470016
Date: July 16, 2003
x07/17/03



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The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 14th day of July, 2003.


Stephanie Godino

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT/ELECTION

Sir/Madam:

In response to the Office Action mailed June 17, 2003 in the above-identified application, Applicants hereby elect the invention of Group 1, namely claims 1-50, for further prosecution.

As identified in the Office Action, claim 1 (the only independent apparatus claim) links Group 1 (claims 1-50) and Group 2 (claims 1 and 51-68). Upon the allowance of independent claim 1, the restriction requirement as to Group 2 shall be withdrawn and the claims of Group 2 will be entitled to examination in the instant application.

Applicants do not traverse the restriction requirement as to Groups 1 and 2 (Applicants also do not traverse the restriction requirement as to Groups 3 and 4). However, the election of the Group 1 claims is made with traverse to the restriction requirement as to Groups 1 and 3. Group 3 includes the only independent method claim, claim 69, and claims depending therefrom

(claims 70-89). The Applicants respectfully submit that search and examination of all of the claims pending in Groups 1 and 3 can be made without serious burden on the Examiner.

In support of the Restriction Requirement regarding Groups 1 and 3, the Office Action states that the respective inventions corresponding to these groups allegedly are related as process and apparatus for its practice. According to MPEP §806.05(e), a process and an apparatus for its practice can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process. The MPEP points out that *the burden is on the Examiner to provide reasonable examples that recite material differences* (MPEP §806.05(e); emphasis added).

In item 8 on page 4, with respect to the claims of Groups 1 and 3, the Office Action merely states summarily that “the apparatus as claimed can be used to practice another materially different process.” However, beyond this, the Office Action fails to provide any reasonable example that shows that the apparatus of independent claim 1 can be used to practice a materially different process than that claimed in independent method claim 69.

Rather, in item 9 on page 5, inasmuch as this passage can be understood, the Office Action appears to allege that an apparatus corresponding to the Group 1 claims could be *controlled* by any number of processes that are different than those recited in the steps of the Group 3 claims. Applicants respectfully submit that this line of reasoning is not relevant to the inquiry set forth in MPEP §806.05(e); the Office Action first alleges that the apparatus of Group 1 can be used to practice a materially different process than that claimed in Group 3, and then appears to say that a materially different process than that claimed in Group 3 may be used to control the apparatus of Group 1. These are different and, in fact, opposite arguments; how the apparatus *is controlled* is a different analysis than how the apparatus *functions to practice a process*. In any case, the Office Action fails to support either of these analyses with reasonable examples. Accordingly, the Examiner has not met his burden with respect to supporting the Restriction Requirement between Groups 1 and 3.

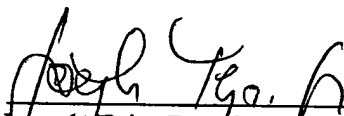
In sum, Applicants have distinctly and specifically pointed out what are respectfully believed to be errors in this Restriction Requirement, and hence traverse this requirement with

respect to Groups 1 and 3. In doing so, Applicants retain the right to petition from the requirement under 37 C.F.R. §1.144.

Applicants respectfully request the Examiner to reconsider and withdraw the Restriction Requirement between Groups 1 and 3 and proceed with prosecution on the merits of all of the pending claims in these groups.

Respectfully submitted,

Kevin J. Dowling, et al., Applicants

By: 
Joseph Teja, Reg. No. 45,157
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United States of America
Telephone: 617-395-7000
Facsimile: 617-395-7070

Attorney Docket No.: C110470016
Date: July 16, 2003
x07/17/03x



COPY

Serial No. 09/805,590 File No. C110470016 By: JT/sq
Title: Light-Emitting Diode Based Products
Application of: Kevin J. Dowling, et al. Date: 7/17/03

The U.S. PTO Mail Room acknowledges receipt of the following on the date stamped hereon:

<input type="checkbox"/> Mailing by Express Mail (37 CFR 1.10)	<input type="checkbox"/> Provisional Application Cover Sheet
<input type="checkbox"/> Express Mail Label No. _____	<input type="checkbox"/> Multiple Dependent Claim Fee Sheet
<input type="checkbox"/> Patent Application	<input type="checkbox"/> Inf. Disc. Statement, PTO Form 1449
<input type="checkbox"/> Non-provisional <input type="checkbox"/> Provisional	<input type="checkbox"/> References Cited
Incl. _____ pages, (_____ pgs) Specification,	<input type="checkbox"/> Priority Document(s) # _____
(_____ pgs) Abstract, (_____ pgs) Claims (_____ # claims)	<input type="checkbox"/> Copy of Notice to File Missing Parts
<input type="checkbox"/> Design Patent Application	<input type="checkbox"/> Amendment/Response
<input type="checkbox"/> Declaration(s) _____	<input type="checkbox"/> Petition for Ext. of Time (x2)
<input type="checkbox"/> Drawings _____ Sheet(s) (FIGS. _____)	<input type="checkbox"/> Issue Fee Transmittal
<input type="checkbox"/> Formal <input type="checkbox"/> Informal	<input type="checkbox"/> Letter to Official Draftsperson
<input type="checkbox"/> Utility Patent Application Transmittal	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Fee calculation sheet (x2)	<input type="checkbox"/> Brief (x3)
<input type="checkbox"/> CPA Transmittal	<input type="checkbox"/> Check for \$ _____ Check # _____
<input type="checkbox"/> Verified Statement claiming small entity status	<input checked="" type="checkbox"/> Transmittal Letter (x2)
<input type="checkbox"/> Assignment and Cover Sheet	<input checked="" type="checkbox"/> Cert. of Mailing under 37 CFR 1.8(a)

☒ Other Response to Restriction Requirement/Election

DATE MAILED 7/16/03

Serial No. 09/805,590 File No. C110470016 By: JT/sq
Title: Light-Emitting Diode Based Products
Application of: Kevin J. Dowling, et al. Date: 7/17/03

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Incl. _____ pages, (_____ pgs) Specification,	<input type="checkbox"/> Priority Document(s) # _____
(_____ pgs) Abstract, (_____ pgs) Claims (_____ # claims)	<input type="checkbox"/> Copy of Notice to File Missing Parts
<input type="checkbox"/> Design Patent Application	<input type="checkbox"/> Amendment/Response
<input type="checkbox"/> Declaration(s) _____	<input type="checkbox"/> Petition for Ext. of Time (x2)
<input type="checkbox"/> Drawings _____ Sheet(s) (FIGS. _____)	<input type="checkbox"/> Issue Fee Transmittal
<input type="checkbox"/> Formal <input type="checkbox"/> Informal	<input type="checkbox"/> Letter to Official Draftsperson
<input type="checkbox"/> Utility Patent Application Transmittal	<input type="checkbox"/> Notice of Appeal
<input type="checkbox"/> Fee calculation sheet (x2)	<input type="checkbox"/> Brief (x3)
<input type="checkbox"/> CPA Transmittal	<input type="checkbox"/> Check for \$ _____ Check # _____
<input type="checkbox"/> Verified Statement claiming small entity status	<input checked="" type="checkbox"/> Transmittal Letter (x2)
<input type="checkbox"/> Assignment and Cover Sheet	<input checked="" type="checkbox"/> Cert. of Mailing under 37 CFR 1.8(a)

☒ Other Response to Restriction Requirement/Election

DATE MAILED 7/16/03



2821
Image
Attorney's Docket No.: C01104/70016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin J. Dowling, et al.
Serial No.: 09/805,590
Confirm. No.: 1160
Filed: March 13, 2001
For: LIGHT-EMITTING DIODE BASED PRODUCTS

Examiner: A, Minh D.
Art Unit: 2821

CERTIFICATE OF MAILING UNDER 37 CFR §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 12th day of January, 2004.

Jeanne W. Chub

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir/Madam:

Transmitted herewith are the following documents:

- ☒ [X] Petition to the Commissioner from Requirement for Restriction
- ☒ [X] Copy of Office Action Mailed 12/17/03
- ☒ [X] Copy of Office Action Mailed 11/06/03
- ☒ [X] Copy of Office Action Mailed 6/17/03
- ☒ [X] Copy of Response Filed 7/16/03
- ☒ [X] Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 395-7000.

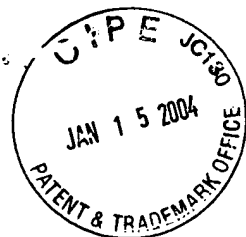
No check is enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 50/2762. A duplicate of this sheet is enclosed.

Respectfully submitted,
Kevin J. Dowling, et al., Applicants

By:

Joseph Teja, Jr., Reg. No. 45,157
LOWRIE, LANDO & ANASTASI, LLP
Riverfront Office Park
One Main Street
Cambridge, MA 02142
(617) 395-7000

Date: January 12, 2004



Attorney's Docket No.: C01104/70016

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kevin J. Dowling, et al.
Serial No.: 09/805,590
Confirm. No.: 1160
Filed: March 13, 2001
For: LIGHT-EMITTING DIODE BASED PRODUCTS

Examiner: A., Minh D.
Art Unit: 2821

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Jeanne Chubb

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO THE COMMISSIONER FROM REQUIREMENT FOR RESTRICTION
PURSUANT TO 37 C.F.R. §§1.144 and 1.181(a)(2)

Sir:

In response to Office Actions mailed November 16, 2003 and December 17, 2003 (copies attached) in the above-identified application, in which a Restriction Requirement was made final, Applicants respectfully petition the Commissioner to review and withdraw the Restriction Requirement, pursuant to 37 C.F.R. §§1.144 and 1.181(a)(2). Pursuant to 37 C.F.R. §1.181(f), this Petition is being filed within two months of the mailing date of the action from which relief is requested.

Applicants do not believe that any fee is required for consideration of this Petition. If however a fee is required, authorization is hereby given to charge Deposit Account No. 50/2762.

Statement of Facts Involved and Points to be Reviewed Pursuant to 37 C.F.R. §1.181(b)

The original Restriction Requirement in the above-identified application was made in an Office Action mailed June 17, 2003 (copy attached). Applicants responded to the Restriction Requirement in a paper mailed July 16, 2003 (copy attached) in which an election was made and reconsideration of the Restriction Requirement by the Examiner was requested by the Applicants. In support of the request for reconsideration, Applicants distinctly and specifically pointed out in their July 16, 2003 response what are respectfully believed to be errors in the Restriction Requirement, as discussed in detail below. Accordingly, pursuant to 37 C.F.R. §1.144, 37 C.F.R. §1.181(c) and MPEP §818.03(c), Applicants thereby preserved their right to file this petition from the Restriction Requirement.

Following is a detailed statement of the facts involved and points to be reviewed for consideration of this Petition.

In response to the Office Action mailed June 17, 2003 in which a Restriction Requirement was made, Applicants elected the invention of Group 1, namely claims 1-50, for further prosecution.

As identified in the June 17, 2003 Office Action, claim 1 (the only independent apparatus claim) links Group 1 (claims 1-50) and Group 2 (claims 1 and 51-68). Accordingly, upon the allowance of independent claim 1, the Restriction Requirement as to Group 2 should be withdrawn and the claims of Group 2 should be entitled to examination, pursuant to MPEP §809.04.

Applicants did not traverse the Restriction Requirement as to Groups 1 and 2 (Applicants also did not traverse the Restriction Requirement as to Groups 3 and 4). However, the election of the Group 1 claims was made with traverse to the Restriction Requirement as to Groups 1 and 3. Group 3 includes the only independent method claim, claim 69, and claims depending therefrom (claims 70-89). The Applicants respectfully submitted that search and examination of all of the claims pending in Groups 1 and 3 can be made without serious burden on the Examiner.

In support of the Restriction Requirement regarding Groups 1 and 3, the June 17, 2003 Office Action stated that the respective inventions corresponding to these groups allegedly are related as process and apparatus for its practice. According to MPEP §806.05(e), a process and an apparatus for its practice can be shown to be distinct inventions if either or both of the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand; or (B) that the apparatus as claimed can be used to practice another and materially different process. The MPEP points out that *the burden is on the Examiner to provide reasonable examples that recite material differences* (MPEP §806.05(e); emphasis added).

In item 8 on page 4, with respect to the claims of Groups 1 and 3, the June 17, 2003 Office Action merely states summarily that “the apparatus as claimed can be used to practice another materially different process.” However, beyond this, the Office Action fails to provide any reasonable example that shows that the apparatus of independent claim 1 can be used to practice a materially different process than that claimed in independent method claim 69.

Rather, in item 9 on page 5, inasmuch as this passage can be understood, the June 17, 2003 Office Action appears to allege that an apparatus corresponding to the Group 1 claims could be *controlled* by any number of processes that are different than those recited in the steps of the Group 3 claims. Applicants respectfully submit that this line of reasoning is not relevant to the inquiry set forth in MPEP §806.05(e); the June 17, 2003 Office Action first alleges that the apparatus of Group 1 can be used to practice a materially different process than that claimed in Group 3, and then appears to say that a materially different process than that claimed in Group 3 may be used to control the apparatus of Group 1. These are different and, in fact, opposite arguments; how the apparatus *is controlled* is a different analysis than how the apparatus *functions to practice a process*. In any case, the June 17, 2003 Office Action fails to support either of these analyses with reasonable examples. Accordingly, Applicants submit that the Examiner has not met his burden with respect to supporting the Restriction Requirement between Groups 1 and 3.

Following the Applicants' request for reconsideration in their response dated July 16, 2003, another Office Action was mailed on November 6, 2003 in which the Examiner made final the Restriction Requirement. The Office Action stated that Applicants' request for

reconsideration was not found persuasive because “the power supplied to the LED in invention I could be controlled by a different method that does not require a user input as recited in invention III.” This statement was corroborated in a replacement Office Action mailed December 17, 2003. Inasmuch as this statement can be understood, Applicants respectfully disagree, and submit that again the Examiner has completely failed to meet his burden with respect to supporting the Restriction Requirement.

For the Commissioner's convenience, independent claim 1 (the only independent claim in Group 1) and independent claim 69 (the only independent claim in Group 3) as currently pending are reproduced below. Again, these are the only two independent claims pending in the application. For emphasis, recitations in both claims 1 and 69 relating to a “user interface” and a “user input” are italicized.

1. A device comprising:

a plurality of LEDs configured to produce light that includes at least two different spectra;

a material configured to receive the light emitted from the plurality of LEDs, and to display a color that is a combination of the at least two different spectra;

a processor configured to generate at least one control signal to control power delivered to one or more of the plurality of LEDs, the processor further configured to change the at least one control signal over time so as to produce from the device at least one dynamic lighting effect; and

a user interface adapted to receive a user input to control operation of the processor.

69. In a device comprising a plurality of LEDs configured to produce light that includes at least two different spectra, and a material configured to receive the light emitted from the plurality of LEDs and display a color that is a combination of the at least two different spectra, a method comprising an act of:

A) controlling a power delivered to one or more of the plurality of LEDs over time, *in response to a user input*, so as to produce at least one dynamic lighting effect.

As should be readily appreciated by the respective recitations in claims 1 and 69, each of these claims closely tracks the language of the other. The claims differ primarily in that apparatus claim 1 positively recites various structural components that have some functionality, while method claim 69 positively recites essentially only functionality, as is conventional for method claims (i.e., *controlling* a power delivered to one or more of the plurality of LEDs.....).


It should also be readily appreciated from the plain language of claims 1 and 69 that both claims recite “user input.” Hence, the Examiner’s statement “the power supplied to the LED in invention I could be controlled by a different method that does not require a user input as recited in invention III” has no basis in the claims – claim 1 clearly recites *a user interface adapted to receive a user input to control operation of the processor*.

In sum, Applicants have distinctly and specifically pointed out what are believed to be errors in the Restriction Requirement with respect to Groups 1 and 3, and respectfully request the Commissioner to withdraw this requirement.

Favorable action is earnestly solicited.

Respectfully submitted,

Kevin J. Dowling, et al., Applicants

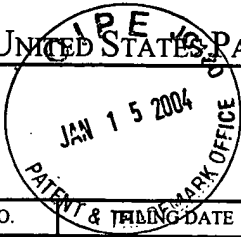
By: 

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United States of America
Telephone: 617-395-7000
Facsimile: 617-395-7070

Attorney Docket No.: C01104/70016
Date: January 12, 2004



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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,590	03/13/2001	Kevin J. Dowling	CO1104/70016	1160

37462 7590 12/17/2003

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RIVERFRONT OFFICE
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CAMBRIDGE, MA 02142

EXAMINER

A, MINH D

ART UNIT PAPER NUMBER

2821

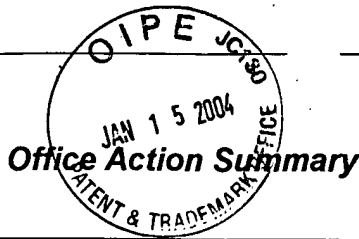
Response
DUE: 3.17.04

DATE MAILED: 12/17/2003

FINAL: 6.17.04
CMK 2/24/08

Please find below and/or attached an Office communication concerning this application or proceeding.

RECEIVED
DEC 19 2003
L, L & A



Application No.

09/805,590

Applicant(s)

DOWLING ET AL.

Examiner

Minh D A

Art Unit

2821

COPY

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) 51-103 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

COPY

DETAILED ACTION

1. Applicant's election with traverse of claims 1-50 in Paper No. 20 is acknowledged. The traversal is on the ground(s) that inadequate support for the restriction for those groups was provided. This is not found persuasive because the power supplied to the LED in invention I could be controlled by a different method that does not require a user input as recited in invention III.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-9, 23, 28-31, 33-34, 40, 43-44, 47-50 are rejected under 35 U.S.C. 102(b) as being unpatentable by Havel (US 6,018,237).

Regarding claims 1-2, Havel discloses a plurality of LEDs configured to produce light that includes at least two different spectra; a material configured to receive the light emitted from the plurality of LEDs, and to display a color that is a combination of the at least two different spectra; a processor (168) configured to generate at least one control signal to control power delivered to one or more of the plurality of LEDs, the processor (168) further configured to change the at least one control signal over time so as to produce from the device at least one dynamic lighting effect; and a user interface (117 or 1169) adapted to receive a user input to control operation of the processor (168). the processor (168) is configured to operate in one of a plurality of modes, each mode producing at least one dynamic lighting effect according to one or more parameters. See figures 5-6, 43 and 87, col.6, lines 65-67 to col.32, lines 1-67.

Regarding claims 3-6, Havel discloses the user interface (117 or 169) consists of a single button or the user interface consists of two buttons or an adjustable input or button or a keypad. See figure 87.

Regarding claim 7, Havel discloses the at least one dynamic lighting effect comprises at least one color-changing effect including at least one of a strobe. See figure 60, col.24, lines 1-53.

Regarding claim 8, Havel the device is configured as a consumer product. See figure 87.

Regarding claim 9, Havel discloses the device is configured as a replacement lighting device to engage mechanically and electrically with a conventional power adapter. See figure 87.

Regarding claim 23, Havel discloses the device comprising: at least one switch associated with the processor, wherein the at least one switch comprises at least one of a Hall effect switch, a motion sensing switch, a proximity detector, a sensor, a transducer, a capacitive switch, and an inductive switch, wherein the processor is configured to be responsive to the at least one switch so as to generate the at least one control signal. Seen figures 50-59, col.21, lines 3-67 to col.24, lines 1-2.

Regarding claim 28, Havel discloses a least one support for the plurality of LEDs, wherein the material is arranged with respect to the at least one support such that the light generated by the plurality of LEDs illuminates the material. See figures 5-8 and 87.

Regarding claims 29, Havel discloses at least one sensor to monitor at least one detectable condition, wherein the processor is configured to generate the at least one control signal in response to the at least one detectable condition. See figures 78-90, col.29, lines 20-67 to col.33, lines 1 to 12.

Regarding claims 30-31, Havel discloses the processor is configured to receive information from a network and process the information so as to generate the at least one control signal and at least one timing device, wherein the processor is configured to respond to the at least one timing device so as to generate timed dynamic lighting effects. See figures 78-90, col.29, lines 20-67 to col.33, lines 1 to 12.

Regarding claims 33-34, Havel discloses the material comprises a transparent material or a pattern of defects configured to redirect the light passing through or along the material. See figure 8.

Regarding claim 40, Havel discloses the device comprising at least one optic.
See figure 43, col.19, lines 10-31.

Regarding claims 43-44, Havel discloses a power converter to provide power for at least one of the processor and the plurality of LEDs. See figure 22.

Regarding claims 47-50, Havel discloses the processor is configured to monitor a power supply signal to the device and to generate the at least one control signal based at least in part on the monitored power supply signal and the user interface is configured to control at least power to the device and the user interface includes a conventional AC dimmer control to vary the power supply signal to the device, and wherein the processor generates the at least one control signal in response to operation of the conventional AC dimmer control and the processor is configured to produce from the device the at least one dynamic lighting effect in response to operation of the conventional AC dimmer control, including at least one of a dimming effect. See figures 5-6, 43 and 87, col.6, lines 65-67 to col.32, lines 1-67.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-22, 24-27, 32, 35-42 and 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Havel (US 6,018,237).

Regarding claims 10-22, 24-27, 32, 35-42 and 45-46, Havel discloses the claimed invention except for a light bulb or a night light or a rope light or household product or a pen or at least part of a consumer electronic device or a glow stick or an ornamental or decorative lighting device or at least one icicle-shaped lighting device or at least part of a toy or game or a lighted ball or wearable accessory or shoe or housing or optic or plug or a setting of the switch of the conventional three-way socket. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a light bulb or a night light or a rope light or household product or a pen or at least part of a consumer electronic device or a glow stick or an ornamental or decorative lighting device or at least one icicle-shaped lighting device or at least part of a toy or game or a lighted ball or wearable accessory or shoe or housing or optic or plug or a setting of the switch of the conventional three-way socket, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Conclusion

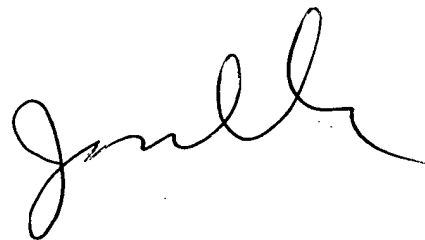
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Havel. (US 4,965,561) and Ference et al (US 5,530,322) are cited to show variable color device and multiple controller.

COPY

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Minh A whose telephone number is (703) 605-4247. The examiner can normally be reached on M-F (7:30 –4:30 PM).

If attempts to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Don Wong, can be reached on (703) 308-4856. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9318 for regular communications and (703) 872-9319 for final communications.

Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center receptionist whose telephone number is (703) 308-0956.



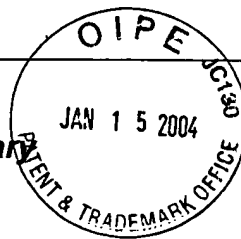
Examiner

Minh A

Art unit 2821

12/10 /03

Interview Summary



Application No.

09/805,590

Applicant(s)

DOWLING ET AL.

Examiner

Minh D A

Art Unit

2821

All participants (applicant, applicant's representative, PTO personnel):

COPY

(1) Minh D A.

(3) _____

(2) Jseph Teja.

(4) _____

Date of Interview: 11/15/03.

Type: a) ☐ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____

Claim(s) discussed: _____

Identification of prior art discussed: _____

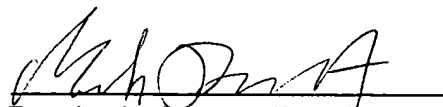
Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: 1) Restriction requirement is proper so only the elected claims which are 1-50 were examined. See MPEP chapter on restriction. 2) Applicant can have 3 months to respond send out supplemental office action to reset time to respond. 3) does not have to submit IDS.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

COPY

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

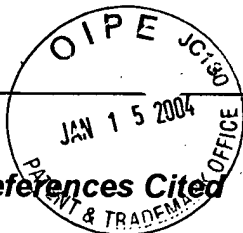
A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

**Notice of References Cited**

Application/Control No.

09/805,590

Examiner

Minh D A

Applicant(s)/Patent Under
Reexamination
DOWLING ET AL.

Art Unit

2821

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,018,237	01-2000	Havel, Karel	324/115
	B	US-4,965,561	10-1990	Havel, Karel	345/46
	C	US-5,530,322	06-1996	Ference et al.	315/295
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.